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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,909	03/10/2004	David Baran	GBTV 1001-1	1626
22470 7590 10/24/2007 HAYNES BEFFEL & WOLFELD LLP P O BOX 366 HALF MOON BAY, CA 94019			EXAMINER STANLEY, MARK P	
			ART UNIT 4157	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/796,909

Applicant(s)

BARAN ET AL.

Examiner

Mark P. Stanley

Art Unit

4157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

2. Claims (1-2) are rejected under 35 U.S.C. 102(e) as being anticipated by Megeid et al. (US PGPub 2007/0055980 A1 hereinafter Megeid).

Regarding claim 1, Megeid discloses "a process for allowing a viewer at a TV display to bypass undesired segments of a TV program" (abstract, [0007]) comprising: "storing one or more TV programs containing a first class of metadata including a start location and a stop location of potentially undesired segments" ([0008]-[0009], [0022]-[0023], Figs. 1A-Fig. 1B show metadata, while in [0008] receiving a program information is discussed wherein multiple programs being stored and available for receiving); "retrieving one of the TV programs for display" ([0008], [0024]-[0025]); "defining, with a second class of metadata, unwanted segments specific to the user of said TV display" ([0008], [0025], Fig. 1A, Fig. 1B, Fig. 2); "matching the first class of metadata with the second class of metadata" ([0009], Fig. 2); "removing, responsive to matching the first

class of metadata with the second class of metadata, undesired segments from the TV program" ([0010]-[0013], Fig. 2, Fig. 3, Fig. 4, Fig. 5).

Regarding claim 2, Megeid discloses a "step of time shifting two or more programs, to fill time space resulting from removing undesired segments from the TV program" ([0010]-[0013], [0026]-[0037], Fig. 2, Fig. 3, Fig. 4, Fig. 5, while Megeid discloses time shifting segments within a segmented program to fill time space, it would have been inherent for Megeid to time shift a following program on to the end of the current program as claimed).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (***See MPEP Ch. 2141***)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

2. Claims (3-4) are rejected under 35 U.S.C. 103(a) as being unpatentable over Megeid et al. (US PGPub 2007/0055980 A1 hereinafter Megeid) in view of Abecassis (US 6,553,178 B2 hereinafter Abecassis).

Regarding claim 3, Megeid teaches the process of claim 2, but does not teach "the step of financial reimbursing program suppliers for a financial loss occasioned by removed material". However, Abecassis does (column 45, lines 58-61, Fig. 10a, Fig. 11b; Abecassis teaches a system where the viewer is credited or debited for the verified viewing of TV program content delivered by content-on-demand).

Therefore, one of ordinary skill in the art at the time the invention was made would have been motivated to modify Megeid's method for selectively suppressing undesired program segments from a broadcast television signal with Abecassis' system where the viewer is credited or debited for the verified viewing of TV program content delivered by content-on-demand. Hence, it would be obvious to apply Abecassis' system to work with television provided by Megeid's method where by charging the viewer for not viewing certain TV program content would result in reimbursing the program suppliers.

Regarding claim 4, see discussion in claim 2 above.

3. Claims (5-6, 9-10) are rejected under 35 U.S.C. 103(a) as being unpatentable over Megeid et al. (US PGPub 2007/0055980 A1 hereinafter Megeid) in view of Riedel et al. (US PGPub 2005/0060745 A1).

Regarding claims 5 and 9, Megeid teaches a method "for removing unwanted TV programs" in a television broadcast system ([0001]); however an apparatus as recited in claims 5 and 9 corresponding to a method of claim 1 is not explicitly disclosed.

Riedel teaches an apparatus for delivering time shifted TV program content with targeted advertisements provided to the client by a server storing multiple TV programs in a time shifting architecture using a NDVR architecture (abstract, where DVR is a version of a PVR). A plurality of programs are delivered to an NDVR control center by programmers whom generate segmented TV programs and metadata wherein the NDVR control center is connected to a distribution network ([0040]-[0043], [0046]-[0047], Fig. 2, Fig. 3). Using the metadata targeted advertisements are inserted into the TV programs by time shifting ([0049]-[0052]). The client invokes request for delivery of a specific TV program, the NDVR control center delivers a user time shifted program chosen from the plurality of TV programs stored at the NDVR control center where the TV programs contain specifically targeted advertisements ([0047], [0071], Fig. 4)

One of ordinary skill in the art at the time the invention was made would have been motivated to modify a method for selectively suppressing undesired program segments from a broadcast television signal taught by Megeid with an apparatus for delivery of a time shifted TV program content selected from multiple programs stored at an NDVR control center taught by Riedel.

Regarding claims 6 and 10, Megeid does not teach an apparatus "further comprising means, time shifting two or more programs, to fill time space resulting from removing undesired segments from the TV program"; however claims 6 and 10 pertain

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to an apparatus corresponding to a method of claim 2 above. Hence, they have been analyzed and rejected with respect to claims 2 and 5 above.

4. Claims (7-8, 11-12) are rejected under 35 U.S.C. 103(a) as being unpatentable over Megeid et al. in view of Riedel et al. as applied to claims 5 and 9 above respectively, and further in view of Abecassis.

Regarding claims 7 and 11, the combination of Megeid and Riedel does not teach the means "of financial reimbursing program suppliers for a financial loss occasioned by removed material". However, Abecassis teaches a system where the viewer is credited or debited for the verified viewing of TV program content delivered by content-on-demand. (column 45, lines 58-61, Fig. 10a, Fig. 11b). Therefore, one of ordinary skill in the art at the time the invention was made would have been motivated to modify the combined teachings of Megeid in view of Riedel for selectively suppressing undesired program segments from a broadcast television signal with Abecassis' system where the viewer is credited or debited for the verified viewing of TV program content delivered by content-on-demand. Hence, it would be obvious to apply Abecassis' system to work with television provided by Megeid's method where by charging the viewer for not viewing certain TV program content would result in reimbursing the program suppliers.

Regarding claims 8 and 12, the claimed limitations have been analyzed and rejected for the same rationale as stated in claims 6 and 10 above.

**Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fellenstein et al. (US 7,240,354 B2) – apparatus and method for blocking specific television commercials based upon user preferences and commercial characteristics

Ma (US PGPub 2004/0133909 A1) – advertising content redelivery system for use with real time broadcasting and time shift recording

**Contact**

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark P. Stanley whose telephone number is (571) 270-3757. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO



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Customer Service Representative or access to the automated information system, call  
800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark P. Stanley/

  
VU LE  
SUPERVISORY PATENT EXAMINER